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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 6.2. HEALTHY FAMILIES [12693 - 12694.2] (*Part 6.2 added by Stats. 1997, Ch. 623, Sec. 2.*)

CHAPTER 12. Appeals [12693.85 - 12693.89] (*Chapter 12 added by Stats. 1997, Ch. 623, Sec. 2.*)

12693.85. Program decisions described in this section may be appealed to the board. If an applicant believes that a written decision on one of the following specified issues was made in violation of the program statutes or regulations, or other written representation of program policy made to the individual by the program or the board, that individual may file an appeal with the board. Decisions that may be appealed are the following:

- (a) A decision that a child is not qualified to participate or continue to participate in the program.
- (b) A decision that a child is not eligible for enrollment or continuing enrollment in the program.
- (c) A decision as to the effective date of coverage.

(*Added by Stats. 1997, Ch. 623, Sec. 2. Effective January 1, 1998.*)

12693.86. (a) An appeal shall be filed in writing with the executive director within 60 calendar days of the date of the notice of the decision being appealed.

(b) An appeal shall include all of the following:

- (1) A copy of any decision being appealed, or a written statement of the action or failure to act being appealed.
- (2) A statement specifically describing the issues that are disputed by the appellant.
- (3) A statement specifically describing the program statute or regulation, or other written representation of program policy that the appellant believes the program or board violated.
- (4) A statement of the resolution requested by the appellant.
- (5) Any other relevant information the appellant wants to include.

(c) Any appeal that does not specifically allege a violation of a program statute or regulation, or other written representation of program policy will be deemed to be a request for program review pursuant to Section 12693.88.

(d) An appeal that specifically alleges a violation of program statute or regulation or other written representation of program policy, but fails to include any other necessary information, shall be returned to the appellant without review. The appellant may resubmit the appeal. The resubmittal shall be filed within the time limits of subdivision (a) or within 20 calendar days of the receipt of the returned appeal, whichever is later.

(*Added by Stats. 1997, Ch. 623, Sec. 2. Effective January 1, 1998.*)

12693.87. (a) Any appellant who files an appeal pursuant to Section 12693.85 shall receive an initial administrative review of the appeal.

(b) Administrative reviews of appeals shall be conducted in two steps. Each appeal will be reviewed by the program to determine if the requested resolution is required by the statutes and regulations governing the program, or required in order to be consistent with a written representation of program policy made by the program or the board. If so, the appropriate action will be taken within 30 days of the receipt of the appeal, and the appellant will be notified. If not, the appellant will be so notified within 30 days of the receipt of the appeal and informed that he or she may request review by the executive director. This request must be filed in writing with the

executive director within 30 days of the date of the notice of the program determination and shall include the information specified in subdivision (b) of Section 12693.86.

(c) In conducting an administrative review of an appeal, the executive director may contact the appellant and any other party for further information.

(d) The executive director's decision shall be in writing.

(e) The appellant retains the right to request an administrative hearing if the appellant is not satisfied with the decision of the executive director. Such a request shall be filed within 30 calendar days of receipt of the executive director's decision. It shall include a clear and concise statement of what action is being appealed, and the reasons the executive director's decision is not correct.

(Added by Stats. 1997, Ch. 623, Sec. 2. Effective January 1, 1998.)

12693.88. In addition to the appeal process established above, the board shall establish a program review process. If a subscriber or purchasing credit member is not eligible to file an appeal pursuant to Section 12693.85, but wants to have any program decision reviewed, he or she may request that the program review the decision. A review pursuant to this section is separate from and independent of an appeal pursuant to Section 12693.85, and a person that files a request pursuant to this section shall not, thereby, gain any right of appeal. Pursuant to Section 12693.49, any dissatisfaction with an action of a participating health, vision, or dental plan shall be resolved with the plan rather than by requesting program review. When an appeal that requests an administrative hearing is received, the appeal shall be set for hearing as provided in Section 12693.89.

(Added by Stats. 1997, Ch. 623, Sec. 2. Effective January 1, 1998.)

12693.89. (a) Administrative hearings of appeals shall be conducted according to the appeal procedures, including pre- and post-hearing procedures, set forth in Article 3 (commencing with Section 1140) of Chapter 2 of Division 2 of Title 1 of the California Code of Regulations. Article 3 (commencing with Section 1140) is hereby incorporated by reference, subject to the following modifications:

(1) Reference to the Health and Welfare Agency or the component department shall be deemed reference to the Managed Risk Medical Insurance Board.

(2) Reference to the private nonprofit human service organization shall be deemed reference to the appellant.

(3) Reference to Health and Safety Code sections providing the bases, grounds, authorization, or procedures for appeals shall be deemed reference to the bases and authorization, for appeal found in Section 12693.85 and the appeal procedures found in this section.

(4) The 30-day time period specified in subdivision (b) of Section 1140 of Title 1 of the California Code of Regulations shall be extended to 60 days, and the 10-day time period in subdivision (a) of Section 1141 of Title 1 of the California Code of Regulations shall be extended to 30 days.

(5) If the proposed decision submitted to the board is not adopted as the decision, the board may itself decide the case on the record, or may refer the case to the same hearing officer to take additional evidence. If the case is referred back to the hearing officer, the hearing officer shall prepare a new proposed decision based on the additional evidence and the record of the prior hearing.

(6) The decision of the board shall be issued within 90 days following the initial hearing or, if the case is referred back to the hearing officer, within 90 days of the second hearing.

(b) The board may elect to have a hearing conducted by an Administrative Law Judge employed by the Office of Administrative Hearings pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1997, Ch. 623, Sec. 2. Effective January 1, 1998.)